IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

CENTRAL EXCISE APPEAL NO.206 OF 2006

The Commr. of Central Excise .. Appellant.

Versus

M/s.Lloyd Metal & Engineers Ltd. .. Respondent.

Mr.K.R. Choudhari with Mr.N.D. Sharma for the appellant.

Mr.Vipin Jain & Mr.Uday Setty i/by P.K. Setty for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 26TH JULY, 2007.

P.C. :

1. Admit. Heard forthwith.

2. The question of law as formulated in para 4, reads as under :

> "Whether CESTAT is right in allowing assessee's appeal stating that "private records" are not relied upon documents, ignoring the fact that the inquiry made under Section 14 of the "Central Excise Act" is deemed to be a judicial proceedings and Shri Rajendra Prasad Khanna, Joint General Manager of the assessee in his statement recorded under Section 14 of the "said act" has voluntarily admitted the shortages in stock as pointed out by the officers and accordingly they had debited the duty on such shortages."

3. We have considered the order dated 20th September, 2005 and we find that the question as

raised has not been answered. Even otherwise the order is cryptic.

4. In the light of that, the impugned order is set aside. The matter is remanded back to the Tribunal for denovo hearing and for passing an appropriate order after giving an opportunity of hearing to the parties.

4. Appeal, accordingly stands disposed with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)